

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION  
A SPECIAL ORDER BY CONSENT  
ISSUED TO  
HOLLINGSWORTH & VOSE COMPANY**

**SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Hollingsworth & Vose Company, for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.
6. “Hollingsworth & Vose Company” means the company certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the structure at 289 Parkview Road - Floyd Industrial Park - located in Floyd, Virginia.
8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
10. "O&M" means operations and maintenance.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Hollingsworth & Vose Company own and operate the facility in Floyd, Virginia. This facility is the subject of the Virginia State Air Pollution Control Board and the Virginia Solid Waste Management Laws and Regulations.
2. DEQ has noted an apparent violation of the Air Pollution Control Law and Regulations. These problems, noted in a Notice of Violation issued by DEQ on December 2, 2002, include:

On November 20, 2002, DEQ staff observed two Hollingsworth & Vose Company employees igniting a stack of metal grates. Staff entered the property and questioned the employees on the burning process. The employees stated that the grates were coated with various latex materials and they were removing the latex by burning the grates. Staff was also informed that the employees used diesel fuel to ignite the latex materials.

Staff then contacted Mr. Hatcher and Mr. Robinson and informed them of the events taking place. The facility contacts and staff proceeded to the burn site and requested the employees to extinguish the fire. Staff also requested that the site be cleaned and placed in a drum to be disposed of properly.

The observations above are cited under the following regulations.

Section 9 VAC 5-40-5620.C of the State Air Pollution Control Board Regulations states that no owner or other person shall cause or permit open burning for the disposal of petroleum based materials.

Section 9 VAC 5-40-5620.F of the State Air Pollution Control Board Regulations states that no owner or other person shall dispose of waste by open burning.

Section 9 VAC 20-80-80 of the Virginia Solid Waste Management Regulations, states the following:

A. Prohibition

1. No person shall own, operate, or allow to be operated on his property any sanitary landfill or other facility for the disposal, treatment or storage of solid waste in a manner that constitutes open dumping as provided for in Part IV (9 VAC 20-80-170 et seq.) of this chapter.

2. No person shall dispose of solid waste in open dumps as defined in Part IV of this chapter.
- B. Any person who violates subsection A of this section shall immediately cease accepting additional wastes and shall initiate such cleanup or corrective actions as are required by Part IV of this chapter to alleviate the conditions that cause the facility to be classified as an open dump or to take other appropriate measures to abate improper management of waste.

Section 9 VAC 20-80-90 of the Virginia Solid Waste Management Regulations, states the following:

- A. Prohibitions and duties
  1. No person shall operate any landfill or other facility for the disposal, treatment or storage of solid waste without a permit from the director.
  2. No person shall allow waste to be disposed of or otherwise managed on his property without a permit from the director.
  3. It shall be the duty of all persons to dispose of or otherwise manage their solid waste in a legal manner.
- B. Any person who violates 9 VAC 20-80-90.A shall immediately cease treatment, storage or disposal of any additional waste and shall initiate such removal, cleanup or corrective actions as required by Part IV of this chapter.

Section 9 VAC 20-80-180.B.7.a of the Virginia Solid Waste Management Regulations, states the following:

- B. Any site, other than a municipal solid waste landfill as defined in subsection A of this section, that meets any of the following criteria shall be classified as an open dump:
    7. Open burning.
      - a. The site or practices that engages in open burning of residential, commercial, institutional or industrial solid waste.
3. On December 19, 2002, Hollingsworth & Vose Company representatives met with DEQ staff to discuss the apparent violations described in this Order. Mr. Hatcher informed staff that the estimated amount of latex materials burned was less than 50 lbs. Mr. Hatcher stated that Hollingsworth and Vose Company has decided to purchase new grates instead of cleaning the coated grates for now. Hollingsworth and Vose Company will continue to explore alternative solutions.

#### **SECTION D: Agreement and Order**

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§10.1-1309 and 10.1-1316, and after consideration of the factors set forth in Va. Code § 10.1-1186.2, orders Hollingsworth & Vose Company, and Hollingsworth & Vose

Company agrees, to perform the actions described below and in Appendix A of this Order. In addition, the Board orders Hollingsworth & Vose Company, and Hollingsworth & Vose Company voluntarily agrees to pay a civil charge of **\$1,500.00** in settlement of the violations cited in this Order.

**\$1,500.00** of this civil charge shall be paid within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

The payment shall include Hollingsworth & Vose Company's Federal ID number or Social Security Number if Hollingsworth & Vose Company does not have a Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Hollingsworth & Vose Company, for good cause shown by Hollingsworth & Vose Company, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Hollingsworth & Vose Company by DEQ on December 2, 2002. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Hollingsworth & Vose Company admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Hollingsworth & Vose Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Hollingsworth & Vose Company declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other

administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Hollingsworth & Vose Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Hollingsworth & Vose Company shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Hollingsworth & Vose Company shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Hollingsworth & Vose Company shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Hollingsworth & Vose Company. Notwithstanding the foregoing,

Hollingsworth & Vose Company agrees to be bound by any compliance date, which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Hollingsworth & Vose Company. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Hollingsworth & Vose Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Hollingsworth & Vose Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

Hollingsworth & Vose Company voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia

City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_ day of  
\_\_\_\_\_, 2003, by \_\_\_\_\_, who is  
(name)

\_\_\_\_\_ of Hollingsworth & Vose Company, on behalf of the Company.  
(title)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

## **APPENDIX A**

Hollingsworth & Vose Company shall:

1. From the effective date of the Order, submit to DEQ accurate, up to date documentation demonstrating that all associated employees have been trained in the proper Operation and Maintenance procedures concerning the disposal procedures for the drain grates. This condition is a one-time requirement.
2. From the effective date of the Order, submit to DEQ accurate, up to date documentation demonstrating that the next set of grates are disposed of properly. This shall, at a minimum, include shipping manifests.

If the facility decides not to dispose of the grates and chooses to utilize the Bake-Off Oven, the following condition shall be applicable.

3. Prior to the operation of the Bake-Off Oven, submit to DEQ a Form 7 Permit application to accommodate the addition of the latex materials into the Bake-Off Ovens. This application will then be evaluated for a Modification to the Permit as required by Section 9 VAC 5-80-10 *et seq.* of the State Air Pollution Control Board Regulations.